

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EVERETT L. HUNT and U.S. POSTAL SERVICE,
SANTA CLARA PROCESSING & DISTRIBUTION CENTER,
Santa Clara, CA

*Docket No. 02-1287; Submitted on the Record;
Issued October 9, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant has established that he sustained an injury in the performance of duty.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to establish that he sustained an injury in the performance of duty.

On November 6, 2001 appellant, then a 54-year-old mail processor, filed an occupational disease claim alleging that he suffered from degenerative arthritis and a pinched nerve in his neck, right shoulder and arm. His claim was accompanied by factual and medical evidence.

By letter dated December 1, 2001, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish his claim. The Office requested that he submit additional factual and medical evidence supportive of his claim.

By decision dated February 16, 2002, the Office found that appellant did not submit sufficient medical evidence to establish that he sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the essential

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

Appellant did not submit sufficient medical evidence to establish that he sustained a neck, right shoulder or right arm injury in the performance of duty. He submitted an October 31, 2001 letter from his medical insurance provider authorizing a consultation with Dr. Pablo Lawner, a Board-certified neurosurgeon. This letter is of no probative value because it is not from a physician and does not provide a diagnosis concerning appellant's neck, right shoulder or right arm. Further, it did not establish a causal relationship between employment factors and appellant's conditions. He has not submitted a rationalized medical report relating his claimed injuries to employment factors. Thus, the Board finds the evidence submitted is insufficient to meet his burden of proof that his alleged injuries were caused by employment factors. It is appellant's burden of proof to submit probative medical evidence and he has not done so in this case.

³ See *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁴ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

The February 16, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
October 9, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member